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ASSOCIATION OF
FEDERAL COMMUNICATIONS CONSULTING ENGINEERS
WASHINGTON, D. C.

March 21, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington, DC 20554

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MAR 21 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: WT Docket No. 95-5
Notice of Proposed Rule Making

Dear Mr. Caton:

Enclosed are ten copies which have been electronically transmitted of the comments prepared by AFCCE in the Notice of Proposed Rule Making, *"In the Matter of Streamlining the Commission's Antenna Structure Clearance Procedure and Revision of Part 17 of the Commission's Rules Concerning Construction, Marking and Lighting of Antenna Structures"*. The original will be filed upon receipt.

If there are any questions or comments concerning this filing, please contact the undersigned.

Sincerely,

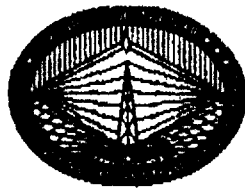
 (DCE)

John F.X. Browne

JFXB:cc
Encl.

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CHIEF SECRETARY

In the Matter of)
Streamlining the Commission's Antenna)
Structure Clearance Procedure)
&)
Revision of Part 17 of the Commission's)
Rules Concerning Construction, Marking)
and Lighting of Antenna Structures)

WT Docket No. 95-5

**COMMENTS OF THE
ASSOCIATION OF FEDERAL COMMUNICATIONS CONSULTING ENGINEERS**

The Association of Federal Communications Consulting Engineers (AFCCE) is an organization that includes members who are registered professional engineers engaged in the practice of consulting engineering or are communications company engineering executives. The AFCCE was organized in 1948 and has, for more than 46 years, been pleased and honored to share its professional experience and insight with the Federal Communications Commission (FCC).

The AFCCE fully supports the objectives of the Commission in its proposal to streamline the collection and organization of data regarding antenna structures used by Commission licensees. However, we believe that certain details of the Commission's proposals could be refined and improved and offer the following comments and suggestions based on our members' experience with the practical aspects of telecommunications engineering.

The following comments are numbered to correspond with the relevant paragraph number of the NPRM where appropriate.

- NPRM 3. The Commission has adopted metric values for the requirements of Part 17 of the rules which are converted from "English" units and are specified to the nearest 0.01 meter. This value of precision is inappropriate. Metric values specified in the rules and in all applicable application forms should be rounded to the nearest whole meter. Similarly, geographic coordinates should be specified to the nearest whole second.
4. Many antenna structures, especially those on buildings or on multiple-use mountaintop sites, are operated by site management companies, or by agents who act under "master lessor" agreements. In some cases, the actual ownership of the structure is by the real estate owner, in some cases by the master lessor or site management company, and in some cases by the user or user group [which is a lessor or a user under license from the site owner]. The rules should make it clear that if the site is operated by a management entity that controls all site access under a long term lease or management agency agreement, the site management entity is the "owner" for the purposes of the rule. This avoids the necessity of determining the actual real property owner (which may be complicated by mortgage transactions, partnership agreements, or other real estate ownership vehicles) when that "real" ownership is irrelevant to the Commission's purposes. A site management company or master user who has some interest in and involvement with the telecommunications industry is likely to be much more informed and responsive to Commission objectives and requirements than a trust company, deedholder or other financial fiduciary entity. Furthermore, in complicated real estate transactions, the ownership may change many times, while the master lessor is unlikely to change. Some corporate owners who obtain modest revenue from communications site rental may be unwilling to continue such use if they perceive a new legal and administrative impediment to site use operations which are only incidental to their primary business.

While it is obviously not the intention of the Commission to preempt local or state regulations about antenna structures that are a legitimate concern of local regulation, such as overall height limits, legitimate health and safety considerations, or underlying land use restrictions, it would be appropriate for the Commission to specifically preempt local and state regulation of antenna structures which are based on aeronautical considerations, much as the Commission has done with respect to radio interference considerations. Some states and local governments have "aeronautical overlays" or other restrictions which are inconsistent with FAA and FCC procedures and standards, and these should not be allowed to unreasonably restrict Commission licensees who obtain FAA and FCC approval for antenna structures.

8. In footnote 19, the discussion of 47CFR§17.17 is unclear. It is an unreasonable burden to require an existing licensee to bring a previously exempt structure into compliance with the current lighting and marking requirements at the licensee's expense because of a change in some nearby airport or airway.
9. It is not clear what purpose would be served by requiring every licensee to maintain a copy of the form 854R with the station records so long as the license contains the appropriate registration number. It is also unclear what purpose, if any, would be served by requiring that this information be provided to the Commission with license renewal when presumably the underlying license being renewed contains the registration number. If the purpose of the proposal is to make the data supplied to the Commission consistent, it should not be necessary to supply the Commission with the same data (coordinates and height of structure) already included in the registration database with each new or modified application. The elevation of the applicant's antenna AGL and AMSL together with the structure registration number should be sufficient.
11. An additional possibility would be for the Commission to mail a request for registration to each licensee contained in its databases. The Commission can stage this process to manage the workload. This will serve two purposes: to gather the registration information and to clarify the status of licenses no longer in use.

13. This paragraph does not make clear what procedure would be used for a height increase of an existing structure with a registration number. How will the registration of the increased height be processed? Will the new height require a new registration number? How will multiple users be made aware of the new height and of the time when it becomes effective (particularly when the increased height has no other impact on these users)? What will occur if a new registration number or modified registration data is approved but the height increase is never implemented?
16. a) Voluntarily marked or lighted structures should not be registered so that the owner has the option of discontinuing such marking or lighting without administrative complication.
- b) Data should be accessible by anyone. The cost should be as low as possible. The Commission's existing "on-line" contractor should be required to make the data available, and it should be available through NTIS as the "tower file" data now is.
- c) Electronic registration is a very desirable objective.
- d) We would prefer not to see renewal processes but, if there is a renewal process, it should be FCC initiated (e.g., by mailing of forms to the registrant).
- e) Since this process is one which has been generated for the Commission's administrative convenience, and since it will save the government money, there should be no registration fee.
- f) Since the degree of precision required for tower registration is at least one order of magnitude less than the necessary degree of precision required for accurate NIER computation at complex sites, there is no advantage in requiring all antenna structures, including those not required to be aviation marked and lighted, to be registered. The height exclusion is intended to minimize the burden on both tower owners and the Commission, and since a large number of licensee antennas are located so as to be excluded from aviation safety concerns, requiring all such antennas to be registered would obviate any savings from this proposed rulemaking.
- g) A letter by certified mail to the owner or owner's agent is the only reasonable method.
- i) As noted above, specification to the nearest meter and nearest second is reasonable and can be determined from accurate maps, or from simple

GPS and surveying techniques. Any greater accuracy is not reasonable. This is probably the appropriate time for the Commission to adopt NAD 83 coordinates, since the appropriate conversion program is available to all at minimal cost from the Geological Survey. (However, the Commission should avoid the practice adopted by some FAA Regional Offices of converting NAD27 coordinates -- accurate to the nearest second, at best -- to NAD83 coordinates implying accuracy in seconds to one or two decimal places.)

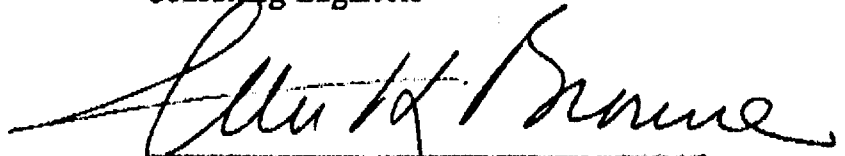
18. Because the revision of the FAA advisory circular 70/7460 is conducted without following the process required by the Administrative Procedure Act for changes in the Commission's Rules, it may not be advisable for the Commission to merely adopt the most recent version of the advisory circular. It is not at all clear what is meant by a "substantive" change to the advisory notice and, since FAA does not follow the APA requirements, the extent of impact of changes imposed by the FAA will not be clear to tower owners or even to the Commission and may result in disputes about the effectiveness of FAA changes absent a Notice and Comment proceeding by the Commission. In order for this process to be effective, the Commission should merely adopt the use of the FAA advisory circular as an advisory guideline, and not as a part of its rules.
19. While marking requirements can be reasonably updated periodically (since virtually all structures require repainting from time to time) it is unreasonable to require that previously required lighting or nonstandard lighting requirements be updated. The FAA has, in many cases, allowed unusual lighting requirements. For example there are existing structures with lighting only of the end towers or the outside corner towers in AM arrays, or with beacons only without sidelights, or with no lights or marking or for tower over 200 feet where shielded by topographical features or by other taller structures. The modification of such lighting may require extensive structural or electrical changes to a tower, imposing an expensive and totally unnecessary burden on the tower owner or licensee.

Other Matters

AM antenna arrays and multiple (and sometimes physically interconnected) towers or support structures on common sites present a problem. The Commission has never had a consistent policy requiring all licensees to reconcile data at multiple use sites or for the coordinates for AM antenna arrays. AM antennas are usually, but not always, specified by the coordinates of the center of the array. Some, however, are specified by the coordinates of one tower without regard to the location of other towers in the array. The Commission must be consistent with the practices of the FAA. Ideally, from an engineering standpoint, a single set of coordinates should be used for an "antenna" no matter how many towers it uses. This could be accomplished by using distance and bearing data for each tower, as listed in the AM database or by the coordinates of the array center and a radius to the most distant tower. The FAA uses a somewhat similar method in its database, where each notified structure or AM site tower is specified with an assumed precision. The precision of coordinates to the nearest second is a very coarse measurement in terms of that normally required for the spacing of towers in AM antennas and, therefore, it is not appropriate to use such coordinates for each tower in such an array.

Respectfully submitted,

The Association of Federal Communications
Consulting Engineers

A handwritten signature in dark ink, appearing to read "John F.X. Browne", written over a horizontal line.

John F.X. Browne, P.E.
President

March 21, 1995